

Rap Brown Wins Right to Arson

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ELLCOTT CITY, Md., March 19—Attorney William M. Kunstler won the right today to a court hearing on an allegation that arson charges against his client, fugitive black militant H. Rap Brown, were fabricated by Dorchester County States Attorney William B. Yates II.

The motion for the evidentiary hearing was granted by

Judge James Macgill, of the Howard County Circuit Court, after Deputy Attorney General Robert F. Sweeney and Yates told the court that such a hearing was needed to vindicate Maryland's system of justice.

The allegation that the charge was fabricated was made in January by Howard County State's Attorney Richard J. Kinlein.

Yates, in an impassioned presentation, told Judge Mac-

gill: "I respectfully ask you, I beg you . . . please, please grant it for me . . . for I have no other way to come back and defend myself except from this witness stand . . . I don't want to be tried in the press."

Sweeney told Macgill that, under normal circumstances, he would oppose Kunstler's motion for the hearing "on technical and legal grounds." He said Brown had "contemptuously absconded from the

jurisdiction of this court," and technically "has no right to assistance . . . until he surrenders himself."

But, Sweeney went on to say, "in hackneyed and trite phrases the question here goes beyond the guilt or innocence of Rap Brown." The allegation that the charges were fabricated, he said, "raises questions about the . . . administration of justice in the state of Maryland, and the charac-

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ter, honesty and integrity of one of the prosecutors . . ."

Brown, missing for more than a year, was not present today. Kunstler told the court that he does not know Brown's whereabouts and noted that Brown would not have to be in court for the hearing on whether evidence was fabricated to bring the arson indictment against him.

Macgill set the hearing for April 16.

After that hearing, Macgill

then will rule on a defense motion to dismiss the arson charge.

Brown was indicted Aug. 14, 1967, on charges of arson, procuring arson, rioting and inciting to riot, following disorders in Cambridge, Md.

Macgill last year dismissed the procurement to arson charge, leaving the arson count itself as the only felony indictment against Brown in Maryland. Riot charges are misdemeanors. Without the felony charge, Kunstler said Brown could not have been indicted on subsequent federal charges of illegally transporting a gun and intimidating an FBI agent, because both charges stemmed from the Maryland felony indictment.

Brown failed to appear for trial in Ellicott City last April. This resulted in a fugitive felony warrant being issued for his arrest. The FBI then placed him on its "Ten Most Wanted" list. He has not been seen publicly since last March, just before he was scheduled to go on trial originally in Harford County. A bomb blast killed two associates of Brown the night

before that trial was scheduled to begin.

Kunstler told the court today that he would call at least four witnesses for the hearing to determine "if a monstrous perversion of justice has occurred." They are Robert Woodward, a reporter for The Montgomery County Sentinel, Kinlein, Ben Franklin, a New York Times reporter, and Yates.

In January, Kunstler said in recounting events leading up to today's hearing. Yates told Woodward that he had fabricated the arson charge against Brown to insure FBI participation in the search if Brown failed to appear for trial.

Then, Kunstler said, Kinlein also told Woodward that Yates had acknowledged to him that the arson charge was fabricated. Woodward subsequently printed the story of the allegation.

"It seems to me that there could be nothing more odious, nothing more reprehensible, nothing more indecent than to use the law to prosecute a man you know is innocent," Kunstler said. "This is the height of tyranny, the height of indecency."